

REGULATION NO.01/2020 OF THE WORK OF PUBLIC PROCUREMENT REVIEW BODY OF KOSOVA

Base on Article 142 (Chapter XII) of the Constitution of the Republic of Kosova and parts VIII and IX of the Law No.04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No.05/L-092, Board of the Procurement Review Body in the meeting held on the 26 shkurt 2020 approves:

REGULATION OF THE WORK OF PUBLIC PROCUREMENT REVIEW BODY OF KOSOVA

PART I

GENERAL PROVISIONS

Article 1

Purpose

1. The object of this regulation is to establish rules on the procedure for reviewing complaints in relation to the public procurement procedure, the method of work of the Public Procurement Review Body and decision-making in cases which are subject to treatment and competence of the PRB, and other issues important for the operation and performance of PRB.
2. The regulation also provides specific instructions for the implementation of certain functions of the PRB. In this sense, they serve as an *internal guide* for all employees of the PRB, enhancing the understanding of each employee about his or her responsibilities towards the organisation and the general public.
3. Issues related to the work of the PRB, which are not governed by this regulation, can be regulated by a special decision of the Board of PRB, relying on this regulation and PPL.

Article 2

Terms and definitions

1. For the purpose of this regulation terms and definitions used in this regulation have the following meaning:

1.1 PRB – is the acronym for the Procurement Review Body.

1.2 Party – is any person who in cases handled by PRB is presented in the quality of the contracting authority, bidders, interested person, and legal representative or authorized by them.

1.3 Conflict of interest – is a situation where the President or members of the PRB, a PRB review expert, professional expert or external expert, have private interests, which could affect decision-making in cases that are subject to treatment in the PRB, and could jeopardize the public interest and the work of the PRB.

1.4 Case – is the legal issue on which the Review Panel decides within its powers in conformity with the PPL.

1.5 The Review Panel – established in accordance with this Rules of Procedure.

1.6 PRB Review Expert – is the review expert, employee of PRB, responsible for reviewing complaints in line with requirements of PPL and internal regulations of PRB.

1.7 PPL – Public Procurement Law of the Republic of Kosova.

2. In accordance with the principle of gender equality, all definitions used in male grammatical form, will be used as neutral for men and women.

Article 3

Procurement Review Body

1. PRB is an independent administrative review body, which is responsible for the exercise and performance of the authorities, powers, functions and responsibilities specified in the provisions of the Public Procurement Law.

2. PRB's headquarters is in Prishtina.

3. PRB is a public authority and an independent budget organization, an independent budget user. PRB is subject to all laws and regulations of the Republic of Kosova to the same extent as any other budget users.

4. The Head of Secretariat and the staff of the Secretariat of PRB are civil servants. This does not apply to members of the Board or independent consultants.

Article 4

Official Language

1. The official languages of PRB are in accordance with article 13 of the PPL.

Article 5

Principles

1. During the exercise of reviewing the complaints, PRB is guided by the following principles:

- 1.1 Legality;
- 1.2 Equality and non-discrimination;
- 1.3 Independence and impartiality in decision making;
- 1.4 Principle of contradictory in the procedure;
- 1.5 Transparency and public information;
- 1.6 Protection of personal data, commercial or state secrets;
- 1.7 Prevention of conflicts of interest;
- 1.8 Prevention of corruption;
- 1.9 Efficiency;
- 1.10 Preserving value for money;
- 1.11 Protection of the public interest.

Article 6

Transparency of the work

1. The President should ensure transparency of the work of the PRB. PRB shall inform the public about its work and findings through public presentation of the annual report published on the website of the PRB and whenever is needed, through media conferences.
2. The President of PRB (or person authorized by him) as well as individual members, with the authorization of the President, shall inform the public about the daily work of PRB.
3. PRB, through publication on the website, makes transparent the date and time of the hearing sessions.
4. Decisions of the PRB in reviewing complaints will be published within five (5) days from its adoption on the website of the PRB in the original language of the decision, and within fifteen (15) days in English or other languages for all cases of large-value contracts.
5. Decisions of the PRB will be published in full version, unless some part of the decision containing personal data or information classified as confidential. These parts will be made anonymous before publication.
6. PRB will provide live online access to PRB main public hearing sessions with parties. PRB

will ensure the proper and consistent functioning of livestreaming equipment and, in case of technical malfunction, PRB will provide a speedy resolution of such malfunctions. Exceptionally, when it is not possible, the PRB will not broadcast the hearings directly via the Internet

Article 7

Preservation of secrets

1. In carrying out their tasks, all employees of PRB as well as independent professionals and experts and all third parties appointed by the PRB to participate in the review and make a decision in a particular case will protect personal information and data representing the state, military, official or business secrets. Documents and instruments shall be treated in accordance with the security classification as defined by the Law on Protection of Personal Data.
2. PRB Board through special internal act shall determine measures and procedures for the preservation of personal data and data representing state, military, official or business secrets.

Article 8

Independency, External Contacts and Cooperation

1. PRB is an independent body established by PPL. Any attempt of any form to influence the PRB and its decision-making is prohibited, and shall be reported to the competent authorities.
2. All public authorities are obliged to cooperate with PRB on exercising its review mandate in public procurement. Regular meetings will be held between the PRB and the PPRC in order to discuss / ensure, inter alia, the consistent interpretation of the public procurement law.
3. As independent body, PRB may freely establish contacts and cooperation, including international cooperation and active participation in relevant international organizations of its nature. PRB President (or person authorized by him) shall represent PRB in such a contacts or cooperation.

PART II

STRUCTURE AND FUNCTIONS OF PRB

Article 9

The jurisdiction of PRB

PRB is responsible for the execution of the functions specified in the PPL, the Law on Public Private Partnership, as well as other laws that can make such an adjustment and complaints about these laws.

Article 10

Structure of the PRB

1. PRB has an internal organization structure described as follows:
 - 1.1 PRB Board is composed of 5 members, one of whom is the President;
 - 1.2 PRB's Secretariat, which provides administrative support to PRB, is responsible to the President of the PRB. PRB Secretariat is headed by the "Head of the Secretariat of PRB" and is structured into the following organisational units, which report directly to the Head of the Secretariat of the PRB:
 - 1.2.1 Complaints' Review Division
 - 1.2.2 Internal Division
 - 1.2.3 Finance Division
 - 1.2.4 Legal Section and Representations in the Courts
 - 1.2.5 HR Office.
2. The internal organization, the functions and responsibilities of work positions of PRB and the number of persons employed (systematization of work positions) are described in detail by Regulation "On Internal Organization and Systematization of work in the Procurement Review Body".

Article 11

Prevention of Conflicts of Interest

1. PRB President, members of the Review Panel, PRB Review Expert or any other staff of the PRB, or an expert or independent advisor or third party will not be involved in the review of a case, if he/she faces a conflict of interest determined by the provisions of Law on Prevention of Conflict of Interest in exercising public functions, or other legislation applicable in Kosovo.
2. Considering those mentioned above and the reasons for exclusion, the person concerned shall immediately notify the President of the PRB, which will take a decision on the exclusion.
3. Excluding the President of the PRB shall be decided in the PRB Board, led and chaired by a Member other than the President.
4. Each Member of the Review Panel, Review Expert, expert or independent advisor shall sign a statement on prevention of conflict of interest at the moment of their involvement in a case. For the purpose of this article, PRB will prepare a sample template. The statement will

be given under administrative and criminal liability.

PART III

RULES OF PROCEDURE FOR REVIEW PANELS

Article 12

General Principles for Review Panels

1. A proceeding of reviewing a complaint shall be conducted and completed in an expeditious, fair and non-discriminatory manner that is directed towards achieving a fair solution, legal and effective for the subject involved. All complaint review proceedings shall be conducted in accordance with the applicable provisions of Part IX of PPL.
2. Neither the proceedings of the reviewing, nor any decision taken by PRB shall be in any manner that discriminates in favor of or against any participant in the proceedings or any other legal or natural person. Principle of independence and impartiality in decision making will be fully respected.
3. PRB will respect the dissenting nature of the reviewing procedure. Principle of contradictory of the procedure will be fully respected.
4. All interested parties will have equal access to the complaint review proceedings and remedies established in this part.
5. In taking the actions or measures provided in Part IX of PPL, PRB shall:
 - 5.1 act as soon as possible;
 - 5.2 act in a manner that is proportionate to the infringement or other matters of complaint and
 - 5.3 take into account the possible consequences of such measures or actions, for all interests likely to be harmed, including the public interest.
6. A PRB decision to re-evaluate the selection of tenderers or awarding the contract does not imply a change in the initial result.

Article 13

Submission of the complaints

1. In accordance with paragraph 1 of Article 109 of the PPL, a complaint to the PRB may be submitted only after a preliminary procedure for resolution of the dispute. Thus, the complaint initially has to be submitted to the contracting authority and in the event that the interested party is not satisfied with the decision taken by the contracting authority in question, it may file a Complaint to the PRB.
2. Complaint to the PRB must be submitted within ten (10) days after the decision issued by the contracting authority in the preliminary procedure of dispute resolution in accordance with Article 108A of the PPL.
3. Complaints must be submitted in written in one of the official languages, defined in article 13 of the LPP.
4. The complainant is required to complete and submit the complaint in the official template of PRB, as published on the website of PPRC, the website of PRB and in the e-procurement platform.
5. Complaint can be filed through the e-procurement platform.
6. If the complaint is submitted in the physical form, the complainant shall submit the original of the complaint to the PRB and simultaneously send, with the same method or by ordinary mail a copy to the contracting authority with the protocol by the PRB. Complaints submitted through the e-procurement platform will be submitted to the contracting authority automatically when PRB formally accepts them in the platform.
7. All complainants are obliged to pay a fee for the complaint to the PRB, in the amount of:
 - 7.1 Whenever the complaint relates to the decision of the award of the contract, the value of the complaint fee is equal to one percent (1%) of the value of the offer, but not less than 100 Euros and not more than 5,000 Euros.
 - 7.2 Whenever the complaint relates to the contract notices, tender documents, the value of the complaint fee is equal to one percent (1%) of the estimated contract value, but not less than 100 Euros and not more than 5,000 Euros.
8. Payment shall be made into the account established by the PRB. The invoice for the payment of the fee may be taken in the premises of PRB as well as within e-procurement platform.
9. Complaint should be clear, short and with the complaining claims alleged, that may have been violated certain articles of PPL, by the contracting authority. Complaining claims should be the same as those presented to the contracting authority.
10. PRB requires from contracting authorities to submit the entire package of documents, dealing with the particular complaint, within 3 days.
11. When documentation mentioned in paragraph 10 of this article is available in the e-procurement platform, PRB will access these documents from e-platform.

Article 14

Contents of the complaint

1. In accordance with article 111 paragraph 1 of the PPL, a complaint should include at least the following information:

- 1.1 Information of the complainant: the name, name of the company, the address and contact information, information of the representative or agent of the competence of the legal representative;
- 1.2 the name of the concerned contracting authority;
- 1.3 sets forth a reasonably specific description of the concerned procurement activity;
- 1.4 attaches a copy of the concerned contract award notice or design contest results notice, if such has been issued or published;
- 1.5 a proof that the complainant qualifies as an “interested party” as defined under Article 4 paragraph 1.26 of PPL;
- 1.6 description of supposed violation of PPL or other legislation and as well as provides explanation how the violation has occurred and provides evidences;
- 1.7 describes how the alleged violation has caused, or threatens to cause, material damage to the complainant in cases where the complainant includes a claim for compensation;
- 1.8 attaches a copy of the decision of the contracting authority issued during the preliminary resolution of disputes in accordance with Article 108A of the PPL; submits an evidence of payment of the complaint’s fee, described in Article 118 of the PPL;
- 1.9 Statement of claim/solution;
- 1.10 Demand for compensation of procedural costs;
- 1.11 Signature of the authorized person and seal, when the complaint is sent in the physical form or by mail.

Article 15

Registration of the Complaints

1. Complaint must be registered by the Complaints’ Official, who, upon request, issues to the complainant a certificate with the date of receipt of the documents. For complaints submitted through the e-procurement platform, confirmation of receipt of complaint will be generated automatically when Complaints’ Official accepts the complaint in line with Article 17 of this Regulation within the e-procurement platform.

2. All complaints registered will be published on the website of the PRB, immediately after

registration.

Article 16

Unified Cases

1. The President of PRB may decide to combine the review of cases, which are related to the same case or the same tender, and these cases will be decided upon by the same Review Panel of the same review expert, except in cases specified in Article 22 of this regulation.
2. The same review expert, technical or professional of procurement, ascertains that complaining claims are the same, which are examined before by the Review Panel, notifies the Review Panel associated with these complaining claims.
3. In repeated cases of same complaint allegations, where the subject of the dispute and the parties are the same, for cases earlier examined, the Review Panel should treat them as a matter already judged “Res Judicata”, according to article 105, Par 2.16 of the PPL.

Article 17

Preliminary review of the Complaint and Assignment of the Review Expert

1. The Complaints’ Official will review the complaint immediately to determine if it belongs to the jurisdiction of the PRB and contains the information required according to Art.14 of this regulation.
2. Complaint’s Official will complete such review within one (1) day after receiving the complaint.
3. If the complaint does not fall under the jurisdiction of the PRB or is expired by the Law, then the Head of the Secretariat will be notified in order to reject it or dismiss it as the deadline expired. This includes also complaints regarding the entities, which are not contracting authorities or contracts not covered by PPL.
4. All cases of refusals will be made in writing, and will be justified.
5. If the complaint is incomplete and does not meet the above requirements, in accordance with paragraph 4 of article 111 of the PPL, the Official for Receiving Complaints’ will inform the deliverer for deficiencies as soon as possible (by fax or email) or via e-procurement platform. If the submission deadline has expired or will expire in not less than four (4) working days, the complainant shall be allowed four (4) days to rectify the complaint and to be submitted again (with all copies attached). If the deadline has not expired or will not expire in two (2) days, the complainant may re-submit the complaint at any time before the scheduled expiration.
6. If after the re-submission, the complaint is deficient, then the President of the PRB shall reject the complaint as not-allowed and will not be possible to be re-submitted again even if improvements are done.

7. If it is concluded that the complaint belongs to the jurisdiction of PRB, is complete and submitted on time, as defined by the PPL, the contracting authority is obliged to automatically suspend the procurement activity to which the complaint relates, without any notification by the PRB, in conformity with article 112, Par 1 of the PPL.

8. A Review Panel will be formed as soon as a complaint is received for review in order to examine the allegations made in the complaint.

9. Each case will be immediately assigned to a PRB Board member, who will be the president or the sole member of the Review Panels established, and will be responsible for the case ("designated PRB Board member"). Cases will be assigned taking into account the importance and complexity of the case as well as the workload of the PRB Board members.

10. The Head of PRB's Secretariat, in cooperation with the President of the PRB, will immediately assign the case to a PRB Review Expert, technical or professional expert of procurement from the list of professional expert of procurement .

11. Procurement Review expert, technical or professional, will make a written request through electronic mail or physical copy, whether the matter should be treated by technical expert. This request must be made no later than two (2) days following acceptance of the authorization for reviewing.

12. If a recommendation is made for assigning of a technical expert, the President of the PRB will decide and select an External Expert from the "Register of Technical Experts" of the PRB if an expert of certain field is missing in the certain list it can assign another expert although is not included in the list.

13. The PRB announces the notification on the website of the PRB for the listing of technical and professional experts in the list of review experts. The notification contains the selection criteria and the selection of experts who have responded to the notification is done after the evaluation of the evaluation commission which is established by a decision of the Secretariat.

Article 18

Suspension or Revocation of suspension

1. The submission of full complaint within the time limit and within the jurisdiction of PRB shall suspend the procurement activity. Such suspension or revocation requires the fulfillment of the conditions from article 112 of the PPL.

Article 19

Report of the PRB Review Expert

1. The PRB Review expert, whom is assigned the case under Article 17 of this Regulation, within ten (10) calendar days after receiving the authorization for reviewing, in accordance with article 114 of the LPP is obliged to review all complaining claims included in the

complaint and if there are claims which he has not submitted in the request for review to the contracting authority, then the review expert is obliged to report to the expertise of make a division of claims for the review panel.

2. Evaluation and recommendation should be provided using the standard template attached to this regulation as Appendix A. Any collection and storage of additional information required for evaluation should be processed using the evidence-gathering table model attached to this regulation as Appendix B together Annex A and Annex B constitute the report of the review expert.

3. The report of the review expert will be without prejudice to the final decision of the review panel on the case. The report of the review expert after the protocol by the archive of the PRB will be sent to the contracting authority, the complainant and the review panel. review expert report will be uploaded and sent through the e-procurement platform, when the e-procurement platform is applicable

4. In case the contracting authority and the complainant agree with the report of the review expert, the review panel issues a notification that the contracting authority, within 5 days to implement the report of the review expert notifying the parties in the procedure.

Article 20

Procedures and competences of the contracting authority in relation with the complaint

1. The contracting authority will respond to the PRB Review Expert's opinion within four (4) days, by a written decision, and the writtem memo will be sent to the PRB and the parties in the procedure, conform article 115 of the PPL. When such information is accessible in the e-procurement platform, PRB will directly approach to these information.
7. All documents, information and notifications should be submitted and communicated through the e-procurement platform if it is technically possible.

Article 21

Composition of Review Panels (RP)

1. The Review Panel must be created after receiving the complaint conform article 17 of this Regulation.
2. Review Panels are consisted of one (1), three (3) or five (5) members of the Board of PRB.
3. The President of PRB, in assigning the Review Panel also sets:
 - 3.1 the President of the Review Panel, the Rapporteur of the RP and members of the RP;
 - 3.2 the Rapporteur of the case, which prepares a detailed information on the case and

presents the same to the Review Panel.

The President of PRB shall appoint one member of the panel, when the value of the subject of the complaint for the procurement activity does not exceed the amount of 30.000,00 Euros.

5. The President appoints three-member panel, in the following cases:

5.1 When we are dealing with the assessment of discriminatory criteria during the tendering stage, or

5.2 When the value of the subject of the complaint for the procurement activity is over 30.000.00 Euros and not greater than 500.000.00 Euros.

6. The President appoints a panel of five members in the following cases:

6.1 When the value of the subject of the complaint for the procurement activity is over 500,000.00 Euros, or

6.2 When the case is of a special interest and importance.

7. If any member of a Review Panel of one or three-members is unable to participate in the Review Panel, then the President of PRB shall appoint another member.

8. In cases where the value of the procurement procedure exceeds 500.000,00 Euros, but for the above reasons a five-member panel cannot be appointed, then the President has the authority to amend the Review Panel from five members to a Review Panel of three members.

9. The President of the Review Panel shall sign all documents produced by the Review Panel assigned in the concrete case.

Article 22

Extraction of Order Inquiry by Review Panels

1. The Review Panel may issue an order to any person, undertaking or public authority requiring such person, undertaking or authority to produce, transfer, submit and/or grant access to data, information, documents (other than privileged legal advice), and/or other items of movable and/or immovable property that the review panel considers, in the exercise of reasonable discretion, relevant to the conduct of an investigation or a procurement review proceeding.

2. The Review Panel may issue an order to any person to appear in the review process of the procurement in front of the Review Panel and provide evidence about everything that the Review Panel considers necessary in order to take a right decision, in the exercise of the reasonable discretion, to be relevant to the subject matter of the procurement.

3. A Review Panel has the right to take other actions necessary and appropriate to verify

arguments or claims of the parties.

4. The Review Panel may request with an order additional information, which may include delivery of material, evidence from any person, company or public authority to which the Review Panel, reasonably believes may be relevant to the case and can involve the evidence of such persons.

Article 23

Extraction of the Settlement Order and Decisions of Review Panels

1. A Review Panel examining a complaint has the competence, authority, power and responsibility, under the conditions specified in the PPL, to issue different orders of settlement and decisions.

2. Review Panel may issue an order to the contracting authority so far allowed by LPP, forcing such authority to suspend or terminate the conduct of a procurement activity or the implementation of the decision of such authority related to or during activity in question.

3. A Review Panel may issue an order, as allowed in the PPL, for a contracting authority requiring from that authority to cancel or revoke a decision of such authority, which may have taken during the procurement activity, including the conditions and specifications found not in accordance with the law in the tender dossier.

4. A Review Panel may issue an order to a contracting authority requiring that authority to pay compensation to a complainant.

5. A Review Panel may issue an order to a contracting authority requiring that authority to correct an alleged violation and / or to prevent further damage to the appellant and / or other interested party.

6. A Review Panel may issue an order to the contracting authority requiring that authority to omit specifications, requirements or technical criteria, economic, financial or selection which are discriminatory in any announcement, invitation, tender dossier, contract documents or other document in connection with a procurement.

7. A Review Panel may issue an order requiring from law enforcement officials to assist the PRB to ensure the adherence of an order of the PRB.

8. A Review Panel may issue an order that makes a signed contract ineffective, if concluded without prior publication in accordance with Article 42 of the PPL, or if the signature of the contract is made before the expiration of the deadline referred to sub-paragraph 1 of paragraph 4 article 26 of the PPL.

9. A Review Panel may impose penalties on any contracting authority that despite the issuance of an order under sub-paragraph 2.13 of Article 105 of the PPL continues to supervise or implement the contract subject to such an order.

10. A Review Panel has the authority to address any refusal or lack of cooperation by any

party and decide in favor of the opposing party, provided that such decision is justified.

11. In repeated cases of same complaint allegations, where the subject of the dispute and the parties are the same, for cases earlier examined, the President of the Review Panel should treat them as a matter already judged "*Res judicata*". For a complaint to be treated as "*Res judicata*", as defined in this article, the following conditions need to be fulfilled:

- 11.1 Repeated cases
- 11.2 Same allegations
- 11.3 Subject of the dispute is the same
- 11.4 Parties are the same

13. A Review Panel primarily decides in the hearing session without the presence of the parties.

Article 24

Procedure of open Hearing session

1. Review Panel, mainly decides in the hearing session without the presence of the parties.
2. Review Panel may, in exceptional cases, to explain complex technical facts about the object of the complaint, to set a hearing session with the participation of the parties, which have a legal and material interest.
3. Economic operators, at the hearing session may be represented by the owner, co-owner, the legal representative of the economic operator, a person that has been authorized by the economic operator or authorized attorneys.
4. Contracting authorities, at the hearing, can be represented by the authorized person, employees of the contracting authority, by the MAO.
5. Date and time of the hearing session will be defined and communicated to the parties at least two (2) calendar days in advance. Each party has the right to request postponement of hearing session with the justified excuse on the condition that it will happen only once, while the delay cannot be more than five (5) calendar days.
6. Development of a hearing session will be recorded in the minutes and signed by all participants. Hearings for main hearing can be held with video recordings initiated by the review panel.
7. The hearing session is led by President of the review panel in cooperation with the members of the review panel. Participants in a hearing session can discuss only for reviewed subject and only when given the word by the President of the review panel. If any of the participants in the hearing session tends to misuse with his authorization, President of the hearing session will behold a verbal remark, if the same does not apply the verbal remark, then President along with members of the panel will give written notice and might exclude from the hearing session and to impose a fine of 100 Euros to 500 Euros.

Article 25

Review Experts, procurement professional expert and technical external expert

1. A Review Panel may require the presence and testimony, during an examination of a Review Expert, a procurement professional expert who has handled the case, or external technical expert.
2. Every expert appointed will be included in the division for reviewing of the complaints, Register of professional Experts of the procurement, or register for technical experts of the PRB.
3. Secretariat shall regularly update the Register of professional and technical Experts.
4. In specific cases, when specialized knowledge is needed and the register of technical experts does not have the specialized knowledge required to review the complaint, then the secretariat reserves the right to appoint a technical expert out of the register on an ad hoc basis.

Article 27

Panel discussions and minutes

1. The PRB Review expert appointed by PRB will make a summary of the case during the hearing session, and then each member of the Review Panel will have the opportunity to discuss or ask questions to the parties in the proceedings.
2. Voting should be made by a simple majority and no member of the Review Panel can abstain from voting. Voting should take place immediately after the hearing session in the session for consultation and voting.
3. In specific cases, in order to establish the facts and evidence presented during the hearing session, the Review Panel may postpone the hearing session for consultation and voting for an indefinite period but on condition to be respected the legal deadlines set out in the PPL for making decisions.
4. After the hearing session for consultation and voting, the President of the Review Panel shall equip the parties in the procedure by a decision of the review panel.
5. Actions taken in the meetings of the Review Panel, in which case a certain disagreement is discussed, shall be recorded in the minutes. Discussions in the future may be recorded on video and audiotape.
6. The minutes of the hearing session include the name of the institution, the members of the Review Panel, the date and time when the decision was taken, the title of the object of examination in the procedure and information on the participating parties and their attorneys.
7. The minutes shall be signed by the President of the Review Panel, the participating parties or their lawyers and clerk who recorded the minutes. The minutes will be an integral part of

the case file.

8. The voting result may be published; however, the vote of each member is strictly confidential.

Article 27

Restrictions on the decisions of the PRB

1. PRB shall issue decisions, conclusions and orders ("Decisions") within fifteen (15) calendar days, as follows:

1.1 The expiration of three (3) days stipulated in Article 115.7 of the PPL, for the contracting authority to transfer all documents and records relating to the concerned procurement activity. This, provided that the Contracting Authority has received a copy of a written notice from the complainant in the PRB, about the failure of the contracting authority to take appropriate remedial action within five (5) days specified in article 115.3 of PPL.

1.2 Submission of additional data and / or explanations requested by the PRB, under point 3 of article 116 of the PPL or from the complainant or the contracting authority and approved by the PRB pursuant to paragraph 4 of the same article.

2. The Review Panel in complex cases may postpone the deadline for review not more than 20 calendar days.

Article 28

Withdrawal of the Complaints

1. The party can withdraw the complaint at any time. In case the complaint is withdrawn before the reviewing of the complaint of assigning the review expert or before accepting the expertise's report, it will be returned the deposit for a complaint. In case the complainant withdraws the complaint after the assigning the review expert and accepting the expertise's report, it will be confiscated the deposit for a complaint.

2. The party can withdraw the complaint at any time before the hearing or before the end of the hearing session. In such cases, deposits or fees for a complaint should be returned to the complainant.

3. If the complainant withdraws the complaint without reason before the hearing session of the Review Panel, then it will not be returned the fee for complaint.

Article 29

Contents of the Decisions

1. Decisions shall contain: (1) introduction, enacting clause and the reasoning, (2) any order given, including damages, but not limited to, cancellation, signature of the contract, the procurement procedure followed, (3) if there were damage and if so, to what extent (4) rules concerning the return of the fee for complaint.
2. The PRB during the review of a complaint reserves the right at any time to request additional clarifications from the procedural parties at any time before issuing a meritorious decision.
3. Contracting Authority is obliged within 10 days to implement the decision of the Review Panel in accordance with article 105 of the PPL. When the decision of the RP, is to re-evaluate the procurement activity, the CA is obliged, within 15 days of receipt of the decision, to notify the PRB regarding the outcome of the re-evaluation and at the same time to notify the parties to the proceedings.
4. The reference number for the case and reviewed procurement should appear in the Decision. The decision may be issued in the Albanian or Serbian language.
5. The decision must be issued to all parties, while its original form should remain on the register and archive of PRB. The Decision will be communicated via e-procurement platform to all parties when applicable.

Article 30

Compensation of Damages to procedural costs

1. A party of the review procedure may request compensation of procedural expenses, which will include the complaint's fee and the time lost to prepare the complaint and answer of the requirements of the Review Expert or Review Panel.
2. Costs can be recovered to the successful party. The costs will be as follows:
 - 2.1 Preparation of the complaint including transaction expenditure from 250.00 Euros for cases under 100,000.00 Euros up to 350.00 Euros for the cases over 100,000.00 Euros.
 - 2.2 Receipt and delivery costs of the complaint's fee (interest rate and duration of the insurance fee to the Central Bank of the Republic of Kosova).
 - 2.3 The losing party always pays the costs of the financial expertise which makes the evaluation of the damage caused, if PRB decides.

Article 31

Return of the fee of the complaint after evaluation of the complaint

1. As part of the decision of the Review Panel, the Review Panel should assess whether the complaint is or without grounds. Review Panel must determine that the complaining claim is ungrounded, if it concludes that the complainant, at the time of filing the complaint, knew or should have known that there was not supportive objective evidence, or did not have reasonable support in the law for such an assertion.
2. In particular and without limitation, the Review Panel shall consider the complaint ungrounded if, there would be no chance for the complainant to win the tender, even if there were no violations of the law. Therefore, the complainant has not suffered any loss, but tried to cancel the tender, to give the opportunity to themselves to change prices or the conditions of the bid in a way that is unfair to the other bidders, will be assessed as ungrounded.
3. In such cases, PRB shall notify the complainant in writing without delay, to its designation and before doing this, should take such measures that are appropriate to impose insurance funds, whereas the fee for complaint must be considered as confiscated funds.
4. If the PRB ascertains that the complaint was grounded, or the complainant withdraws the complaint, or if PRB declares incompetent in handling the complaint in question, and if the complaint is incomplete, and if the complaint is out of legal deadline, then to the complainant should be returned the insurance fee of the complaint, according to Article 13 paragraph 7 of this Rules of Procedure.
5. Confiscation of the insurance fee of the complaint shall also apply in cases where the review panel dismisses the complaint as inadmissible, when it is determined that the complainant has been irresponsible and when is clear that the purpose of the complainant is the prolongation of the procurement activity.
6. In case when to the complainant is approved as grounded the complaint, or withdraws the complaint, the complainant, within 60 days must apply for withdrawal of deposit in the amount according to Article 13 paragraph 7 of these Rules of Procedure for the insurance of the complaint. If the complainant does not apply within this time limit of 60 days, it will be confiscated the deposit of the complaint's insurance and these funds will go into the budget of the Republic of Kosovo.
7. If the PRB ascertains that any of the allegations made in the complaint are false, then PRB may require from the complainant to pay an additional fine of up to 5.000,00 Euros.
8. If the PRB applies a fine under paragraph 4 of article 118 of the PPL, an order will be issued to the complainant to pay the fee, and the complainant will be informed that until the fee is not paid in full or a competent court reverses the decision of the PRB, the complainant could not take part in any procurement activities foreseen under the law.

Article 32

Disqualification of economic operators

1. PRB is obliged and has the authority to review and disqualify an economic operator from participation in public procurement. When PRB with a request from a CA,

initiates an examination of the false information or forged documents, as referred to in Article 99 (2) of the PPL, it shall provide the economic operator the right to be heard including legal guarantees referred to in Article 107 of the PPL.

2. If the disqualification is approved at the request of the contracting authority, then the disqualified economic operator may not participate in any procurement activity that includes current and future procurement activities. Disqualification is valid from the moment of issuing the decision regarding the disqualification, until the time period determined in the decision of the review panel. For the purposes of this provision the procurement activity includes, inter alia, the signing of a public contract with the contracting authority.

Article 33

Implementation of the decisions of the PRB

1. All contracting authorities shall inform PRB on the implementation of decisions of the review panels. Secretariat shall track implementation of its decisions of the review panels, and if necessary may request additional information on the implementation of its decisions.

Article 34

Official Seal of PRB

1. PRB should have an allowed stamp square and round “Procurement Review Body” in Albanian and Serbian language.
2. Round stamp, has the size 3.9 cm, in the middle of the stamp there is the emblem of the PRB and the text as follows: The Republic of Kosova, Procurement Review Body - Prishtina and in two languages, Albanian and Serbian.
3. Square stamp which has the size 6.9 X 3.7 cm in which is located the emblem of the Republic of Kosova and the emblem of the Procurement Review Body, containing the Republic of Kosova, the Procurement Review Body - Prishtina, number and date, both Albanian and Serbian.

Article 36

Policy on access to documents

1. PRB can store the information developed during the conduct of its work unopened to the public or unauthorized persons, to the extent permitted under the PPL and the Law on Access to Official Documents.
2. PRB shall cooperate fully with the General Auditor or the Court of competent jurisdiction.

Article 39

Reporting to the Assembly of Republic of Kosova

1. PRB must provide an annual report on its work to the Assembly of the Republic of Kosova, no later than the end of February, about the previous calendar year. The annual report will include data and analysis of legal protection in public procurement system, as well as complaints from the complaining economic operators against the decision of the contracting authorities to contract award and against the contract notice.
2. The report shall contain the following information:
 - 2.1 Total number of complaints received;
 - 2.2 The number of complaints rejected, incomplete and out of deadline under Article 109 and Article 111 of the PPL, or the failure to deposit the fee for complaint, required in Article 118 of PPL, and the number of complaints withdrawn;
 - 2.3 The number of complaints ascertained that do not contain the valid allegation;
 - 2.4 The number of procurement activities that were cancelled as a result of a complaint;
 - 2.5 Detailed information on any event where a contracting authority failed to respect an order of the PRB or of a Review Panel;
 - 2.6 The number of review proceedings that resulted in a conclusion that the concerned procurement activity and the award or decision are validly made;
 - 2.7 Financial report for the previous year, as approved by the Commission on Budget and Finances;
 - 2.8 Details of all decisions of the Basic Court - Department about PRB or all complaints reviewed in the Basic Court;
 - 2.9 The need for new employees;
 - 2.10 Details of the budget and personnel of PRB;
 - 2.11 Details about the physical space of the institution;
 - 2.12 Assessment of the state of legal protection and public procurement in general;

2.13 Report on addressing the Auditor General's report.

Article 40

Transition and final provisions

1. This Regulation on Rules of Procedure Nr. 01/2020 enters into force after publication on the website of the PRB.
2. Regulation No 01/2017 of the Work of Public Procurement Review Body of Kosova is abolished by entry into force of this regulation.

Prishtina on the 26 of February 2020

President of the PRB

Blerim Dina
